

FILED
U.S. DISTRICT COURTIN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

DISTRICT OF UTAH

BY: DEPUTY CLERK

SPENCER MOSS,

Plaintiff,

v.

ARNOLD SCHWARZENEGGER et al.,

Defendants.

Case No. 2:06-CV-540 DB

**ORDER DISMISSING COMPLAINT FOR
IMPROPER VENUE**

Plaintiff, Spencer Moss, an inmate at the Corcoran State Prison in California, filed this *pro se* civil rights suit under 42 U.S.C. § 1983. See 42 U.S.C.S. § 1983 (2007). Plaintiff was granted leave to proceed *in forma pauperis* under 28 U.S.C. § 1915(b). See *id.* § 1915. Plaintiff's Complaint asserts multiple causes of action against a host of California officials including Governor Schwarzenegger, the warden of Corcoran State Prison and numerous other prison officials. Plaintiff's voluminous Complaint, consisting of over sixty-five handwritten pages plus exhibits, challenges various aspects of Plaintiff's California legal proceedings and his conditions of confinement. Court records show that Plaintiff has filed numerous similar cases in the Central District of California where he is now a restricted

filer.¹

Based on a thorough review of Plaintiff's Complaint the Court concludes that venue is not proper in this district. Because all of the defendants named in the Complaint reside in California, venue is proper in Utah only if it is where "a substantial part of the events or omissions giving rise to the claim[s] occurred, or a substantial part of property that is the subject of the action is situated." 28 U.S.C. § 1931(b)(2). Neither of these requirements are satisfied here. Plaintiff's claims do not involve property situated in Utah, and, his allegations relate exclusively to events which occurred in the State of California. Thus, the Court concludes that Plaintiff's Complaint must be dismissed under 28 U.S.C. § 1915 for improper venue. See Trujillo v. Williams, 465 F.3d 1210, 1217 (10th Cir. 2006) (district court may dismiss under § 1915 for improper venue regardless of whether defendants raise the issue as an affirmative defense).

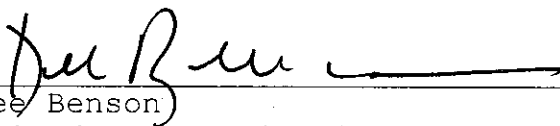
¹ The court also takes notice that the present suit is similar to another case filed by Plaintiff in this district less than three months prior to this case. See *Moss v. Chrones*, case no. 2:06-CV-376-TC (filed May 8, 2006). That case also involved claims against officials at the California correctional facility where Plaintiff was housed and was dismissed on July 27, 2006, for improper venue. (Doc. no. 12.) The dismissal was affirmed by the Tenth Circuit on May 23, 2007. (Doc. no. 26.)

ORDER

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Complaint is dismissed under 28 U.S.C. § 1915 for improper venue.

DATED this 9th day of May, 2008.

BY THE COURT:


Dee Benson
United States District Judge